

AMENDED IN ASSEMBLY APRIL 19, 2004

AMENDED IN ASSEMBLY APRIL 1, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

## ASSEMBLY BILL

**No. 1942**

**Introduced by Assembly Member Lowenthal**

February 11, 2004

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An act to amend ~~Sections 25200 and~~ *Section 25200.15* of the Health and Safety Code, relating to hazardous waste.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1942, as amended, Lowenthal. Hazardous waste facilities permits.

~~(1) Existing law requires hazardous waste facilities to operate under hazardous waste facilities permits issued by the Department of Toxic Substances Control. Existing law requires the department to issue a hazardous waste facilities permit for a fixed term, which is prohibited from exceeding 10 years for any land disposal facility, storage facility, incinerator, or other treatment facility.~~

~~This bill would provide that the owner or operator of a hazardous waste facility is not required to submit an application for a permit renewal until requested to do so by the department. The bill would deem the hazardous waste facilities permit extended if the department does not initiate the review of the permit before the end of the permit's fixed term, as specified.~~

~~(2) Existing law allows the owner or operator of a permitted hazardous waste facility to change facility structures or equipment without modifying the facility's hazardous waste facilities permit, if the~~

change to the structure or equipment is not within a permitted unit, or if the structure or equipment is not actively related to the treatment, storage, or disposal of hazardous waste, or the secondary containment of those hazardous wastes, as specified.

This bill would authorize the owner or operator of a permitted facility to change the facility structures or equipment as a Class 1\* permit modification, pursuant to the regulations adopted by the ~~department~~ *Department of Toxic Substances Control*, if the department determines that the change to the structure or equipment is necessary to comply with requirements or the request of a state or federal agency or an air quality management or air pollution control district and if the change will decrease risks to human health and safety or the environment related to the management of the hazardous wastes in the structure or equipment.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     ~~SECTION 1.—Section 25200 of the Health and Safety Code is~~
- 2     ~~amended to read:~~
- 3     ~~25200.—(a) The department shall issue hazardous waste~~
- 4     ~~facilities permits to use and operate one or more hazardous waste~~
- 5     ~~management units at a facility that, in the judgment of the~~
- 6     ~~department, meet the building standards published in the State~~
- 7     ~~Building Standards Code relating to hazardous waste facilities and~~
- 8     ~~the other standards and requirements adopted pursuant to this~~
- 9     ~~chapter. The department shall impose conditions on each~~
- 10    ~~hazardous waste facilities permit specifying the types of hazardous~~
- 11    ~~wastes that may be accepted for transfer, storage, treatment, or~~
- 12    ~~disposal. The department may impose any other conditions on a~~
- 13    ~~hazardous waste facilities permit that are consistent with the intent~~
- 14    ~~of this chapter.~~
- 15    ~~(b) The department may impose, as a condition of a hazardous~~
- 16    ~~waste facilities permit, a requirement that the owner or operator of~~
- 17    ~~a hazardous waste facility that receives hazardous waste from~~
- 18    ~~more than one producer comply with any order of the director that~~
- 19    ~~prohibits the facility operator from refusing to accept a hazardous~~
- 20    ~~waste based on geographical origin that is authorized to be~~



1 accepted and may be accepted by the facility without extraordinary  
2 hazard.

3 ~~(e) (1) (A) Except as provided in subparagraph (B), the~~  
4 ~~department shall issue a hazardous waste facilities permit for a~~  
5 ~~fixed term, which shall not exceed 10 years for any land disposal~~  
6 ~~facility, storage facility, incinerator, or other treatment facility.~~

7 ~~(B) Notwithstanding any other provision of law, the owner or~~  
8 ~~operator of a hazardous waste facility is not required to submit an~~  
9 ~~application for the renewal of a hazardous waste facilities permit~~  
10 ~~until requested to do so by the department. If the department does~~  
11 ~~not initiate the review of a hazardous waste facilities permit before~~  
12 ~~the end of that permit's fixed term by specifically requesting a~~  
13 ~~permit renewal application, that hazardous waste facilities permit~~  
14 ~~is deemed extended until the date when the department specifically~~  
15 ~~requests a renewal application and the department approves the~~  
16 ~~permit renewal or the department denies the permit renewal and~~  
17 ~~the facility owner and operator has exhausted all applicable rights~~  
18 ~~of appeal.~~

19 ~~(2) The department shall review each hazardous waste~~  
20 ~~facilities permit for a land disposal facility five years after the date~~  
21 ~~of issuance or reissuance, and shall modify the permit, as~~  
22 ~~necessary, to assure that the facility continues to comply with the~~  
23 ~~currently applicable requirements of this chapter and the~~  
24 ~~regulations adopted pursuant to this chapter.~~

25 ~~(3) This subdivision does not prohibit the department from~~  
26 ~~reviewing and modifying a permit at any time during its term.~~  
27 ~~When reviewing any application for a permit renewal, the~~  
28 ~~department shall consider improvements in the state of control and~~  
29 ~~measurement technology as well as changes in applicable~~  
30 ~~regulations.~~

31 ~~(4) Each permit issued under this section shall contain the terms~~  
32 ~~and conditions that the department determines necessary to protect~~  
33 ~~human health and the environment.~~

34 ~~(d) Any permit issued pursuant to the federal act by the~~  
35 ~~Environmental Protection Agency in the state for which no state~~  
36 ~~hazardous waste facilities permit has been issued shall be deemed~~  
37 ~~to be a state permit enforceable by the department until a state~~  
38 ~~permit is issued. In addition to complying with the terms and~~  
39 ~~conditions specified in a federal permit deemed to be a state permit~~  
40 ~~pursuant to this section, an owner or operator who holds that~~

~~permit shall comply with the requirements of this chapter and the regulations adopted by the department to implement this chapter.~~

~~SEC. 2.—~~

*SECTION 1.* Section 25200.15 of the Health and Safety Code is amended to read:

25200.15. (a) The owner or operator of a facility that has a hazardous waste facilities permit issued pursuant to Section 25200 may change facility structures or equipment without modifying the facility's hazardous waste facilities permit, if any of the following apply:

(1) The change to the structure or equipment is not within a permitted unit.

(2) Both of the following apply to the change to the structures or equipment:

(A) The change to the structure or equipment is within the boundary of a permitted unit, and the structure or equipment is certified by the owner or operator not to be actively related to the treatment, storage, or disposal of hazardous waste, or the secondary containment of those hazardous wastes.

(B) The department, within 30 days from the date of receipt of notice from the owner or operator, does not determine any of the following:

(i) The change is related to the treatment, storage, or disposal of hazardous waste or the secondary containment of those hazardous wastes.

(ii) The change may otherwise significantly increase risks to human health and safety or the environment related to the management of the hazardous wastes.

(iii) The regulations adopted pursuant to the federal act require a permit modification for the change.

(b) (1) The owner or operator of a facility that has a hazardous waste facilities permit issued pursuant to Section 25200 or 25201.6 may change the facility structure or equipment as a Class 1\* permit modification, pursuant to the regulations adopted by the department, if the department determines that both of the following apply:

(A) The change to the structure or equipment is necessary to comply with requirements or the request of a state or federal agency or an air quality management or air pollution control district.

1 (B) The change to the structure or equipment will decrease  
2 risks to human health and safety or the environment related to the  
3 management of the hazardous wastes in the structure or  
4 equipment.

5 (2) A change to a facility structure or equipment that is  
6 authorized by this subdivision may not result in an increase in the  
7 permitted capacity of a hazardous waste management unit affected  
8 by the change.

9 (3) For purposes of this section, a “Class 1\* permit  
10 modification” means a change to a facility structure or equipment  
11 that is classified as a Class 1\* modification pursuant to Chapter 20  
12 (commencing with Section 66270.10) of Division 4.5 of Title 22  
13 of the California Code of Regulations.

14 (c) Any determination made pursuant to this section, including,  
15 but not limited to, any determination by the department regarding  
16 the classification of a permit modification, may be appealed by the  
17 owner or operator in the manner provided for appeal of a permit  
18 determination pursuant to the regulations adopted by the  
19 department.

